

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

QUEEN ESTHER JACKSON,

Plaintiff,

v.

POSTMASTER GENERAL JOHN E.
POTTER,

Defendant

No. C 03-2908 MMC

**ORDER DENYING PLAINTIFF'S
MOTION TO ENLARGE TIME TO REPLY
TO DEFENDANT'S RESPONSE TO
PLAINTIFF'S OBJECTION; DIRECTING
DEFENDANT TO FILE MOTION TO
ENFORCE SETTLEMENT; SETTING
BRIEFING SCHEDULE**

On October 14, 2004, the Court, having been advised by Magistrate Judge Maria Elena James that the parties had agreed to a settlement of the above-titled action, dismissed the action without prejudice, and provided that if any party, within 90 days of the date of the dismissal, certified that the agreed consideration had not been delivered, the matter would be restored to the calendar to be set for trial. By order filed January 21, 2005, the Court extended to April 22, 2005 the deadline for either party to submit a certification that the agreed consideration has not been delivered.

On April 22, 2005, plaintiff filed an objection, by which she appeared to seek to restore the above-titled action to the calendar, but did not clearly indicate therein whether or not she had received the agreed-upon consideration. By order filed April 25, 2005, the Court ordered defendant to file, no later than May 13, 2005, a response to plaintiff's

1 objection, and ordered plaintiff to file, no later than May 27, 2005, any reply to defendant's
2 response.

3 On May 3, 2005, defendant filed a response to plaintiff's objection, indicating therein
4 that the parties had settled the matter on October 13, 2004 at a settlement conference, that
5 defendant subsequently sent plaintiff a written settlement agreement and release
6 incorporating the terms of the agreement as understood by defendant, that plaintiff refused
7 to sign the settlement agreement and release, and that defendant has not yet paid plaintiff
8 the agreed-upon consideration in light of plaintiff's failure to sign the settlement agreement
9 and release. Defendant also states it will seek to enforce the parties' settlement agreement
10 after defendant is in receipt of a transcript of the settlement conference conducted October
11 13, 2004.

12 On May 25, 2005, plaintiff filed a request seeking an additional 60 days to file a reply
13 to defendant's response to plaintiff's objection. Plaintiff states that she needs additional
14 time to obtain evidence in support of the merits of her claim against defendant. Because
15 the merits of plaintiff's claim are not presently before the Court, there is no basis to afford
16 plaintiff the continuance sought, and the request is hereby DENIED. Further, defendant
17 has conceded that defendant has not delivered to plaintiff any consideration and, as a
18 consequence, there is no longer any dispute as to that issue. Rather, the relevant inquiry
19 at this stage of the proceedings is whether the parties, in fact, reached a settlement and, if
20 so, the terms thereof. Resolution of those disputed issues appears dependent on the
21 production of a transcript of the settlement conference conducted on October 13, 2004.

22 Under the circumstances, the Court hereby ORDERS defendant to file his motion to
23 enforce the alleged settlement, such motion being supported, at a minimum, by a copy of
24 the transcript of the settlement conference conducted October 13, 2004. In that regard, the
25 Court sets the following briefing schedule and hearing date:

26 1. Defendant, no later than July 1, 2005, shall file and serve on plaintiff a motion to
27 enforce the settlement.

28 2. Plaintiff, no later than July 15, 2005, shall file and serve on defendant any

1 opposition to the motion to enforce the settlement.

2 3. Defendant, no later than July 22, 2005, shall file and serve on plaintiff a reply to
3 plaintiff's opposition.

4 4. Unless the parties are advised that the matter will be decided on the parties'
5 respective submissions, a hearing on the motion to enforce the settlement will be
6 conducted on August 5, 2005, at 9:00 a.m., in Courtroom 7.

7 **IT IS SO ORDERED.**

8
9 Dated: June 1, 2005

/s/ Maxine M. Chesney
MAXINE M. CHESNEY
United States District Judge